

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 12**

LAKELAND REGIONAL MEDICAL
CENTER, INC.

Employer¹

and

Case 12-RC-9286

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 108,
AFL-CIO

Petitioner²

**REGIONAL DIRECTOR'S DECISION AND
DIRECTION OF ELECTION**

The Employer, Lakeland Regional Medical Center, Inc., operates an acute care hospital located in Lakeland, Florida. The Petitioner, International Brotherhood of Electrical Workers, Local 108, AFL-CIO, filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act, and thereafter amended it at the hearing, seeking to represent a unit of all full-time and regular part-time skilled maintenance employees, including stationary engineers, engineer/parts room coordinators, drywall finish mechanics, locksmith/signage mechanics, maintenance mechanics, cabinetmakers, electricians, plumbers, heating/AC/refrigeration mechanics, and equipment mechanics, at Lakeland Regional Medical Center in Lakeland, Florida.³ A hearing officer of the Board held a hearing, and the Employer filed a timely brief with me.⁴

¹ The Employer's name appears as amended at hearing.

² The Petitioner's name appears as amended at hearing.

³ By letter dated December 6, 2007, the Petitioner informed the Employer and me that it wishes to proceed to an election in any alternate unit if the unit sought is found to be inappropriate by the Regional Director or the Board.

⁴ The Petitioner did not file a brief.

At the hearing, the Petitioner and the Employer stipulated that the employees in the petitioned-for job classifications are properly classified as skilled maintenance employees. As evidenced in the hearing and in the Employer's brief, the parties disagree on whether employees in the following job classifications are skilled maintenance employees and must also be included in the unit under the Board's Health Care Rule⁵: biomedical equipment control coordinator, biomedical equipment control technician, systems engineer, junior systems engineer, telecommunications technician, telecommunications analyst, service desk coordinator, and service desk analyst.

While the Petitioner contends that the employees in these job classifications are not skilled maintenance employees and should be excluded from the unit, the Employer contends that they are skilled maintenance employees and must be included. The Employer further contends that biomedical equipment technicians, who are included in a technical unit represented by United Food and Commercial Workers, Local 1625 (UFCW, Local 1625), are not technical employees but skilled maintenance employees. The Employer therefore contends that the technical unit is actually a nonconforming unit including both technical and skilled maintenance employees and that any unit of skilled maintenance employees is residual to that non-conforming unit and must include all remaining skilled maintenance employees under St. John's Hospital, 307 NLRB 767, 768 (1992). The unit sought by the Petitioner would include approximately 48 employees, while the unit sought by the Employer would include approximately 72 employees.

I have considered the evidence and arguments presented by the parties. As discussed below, I have concluded that biomedical equipment control technicians, systems engineers, junior systems engineers, telecommunications technicians, and telecommunications analysts, as well as the employees in the petitioned-for job classifications, are skilled maintenance

⁵ Board's Rules and Regulations Sec. 103.30; 54 Fed. Reg. 16336, 16347-16348, 284 NLRB 1579, 1596-1597 (1989).

employees and should be included in the unit. I have concluded that biomedical equipment control coordinators and service desk coordinators are not skilled maintenance employees and should not be included in the unit. Because the service desk analyst position is a newly created position which had not been posted or filled at the time of the hearing, I will not decide the unit placement of that position.

I find that the issue the Employer attempts to raise regarding whether or not the currently represented biomedical equipment technicians are skilled maintenance employees is not appropriately before me, since any unit of skilled maintenance employees found appropriate herein, whether it is residual to another unit or not, shall include all skilled maintenance employees not presently represented by any labor organization. Moreover, in the stipulated election agreement in Case 12-RC-8477, which was entered into by the Employer and UFCW, Local 1625 on March 8, 2000, and approved by me on March 9, 2000, the Employer and UFCW, Local 1625 unambiguously agreed to proceed with a secret ballot election in an appropriate collective-bargaining unit of “all full-time and regular part-time technical employees” specifically including biomedical equipment technicians and various other employees. On April 25, 2000, I certified UFCW, Local 1625 as the collective-bargaining representative of the employees in that unit. It is well established “that election agreements are contracts binding on the parties who executed them” and that a party may not withdraw from an approved election agreement absent an affirmative showing of unusual circumstances or by agreement of the parties. Highlands Regional Medical Center, 327 NLRB 1049 (1999), citing T & L Leasing, 318 NLRB 324, 325 (1995); Business Records Corp., 300 NLRB 708 (1990). Here, UFCW, Local 1625 has not agreed to the Employer’s withdrawal from its stipulation that biomedical equipment technicians are technical employees appropriately included in the technical unit, and the Employer has not demonstrated unusual circumstances justifying its withdrawal from the stipulation. I therefore will not further address the purported issue of whether or not biomedical equipment technicians are technical or skilled maintenance employees in this decision.

Accordingly, I have directed an election in the following unit, which consists of approximately 68 employees:

All full-time and regular part-time skilled maintenance employees, including stationary engineers, engineer/parts room coordinators, drywall finish mechanics, locksmith/signage mechanics, maintenance mechanics, cabinetmakers, electricians, plumbers, heating/AC/refrigeration mechanics, equipment mechanics, biomedical equipment control technicians, systems engineers, junior systems engineers, telecommunications technicians, and telecommunications analysts employed by the Employer at its Lakeland, Florida acute care hospital facilities, excluding all employees represented by other labor organizations, biomedical equipment control coordinators, service desk coordinators, professional employees, technical employees, all other employees, clerical employees, guards, and supervisors as defined in the Act.

To provide a context for my discussion of the unit placement of the employees in each of the job classifications at issue, I will first provide an overview of the Employer's operations. Then, I will present in detail the facts and reasoning supporting my conclusions with respect to each classification at issue.

I. OVERVIEW OF OPERATIONS

The Employer operates an 851-bed acute care hospital consisting of two campuses, a main hospital campus and a cancer center, which are both located in Lakeland, Florida. The cancer center is located about two miles north of the main hospital campus. The Employer employs a total of approximately 4,500 employees at both campuses. The employees in the petitioned-for job classifications and the disputed job classifications are all stationed at the main hospital campus but are assigned to travel to the cancer center to perform work at that location as needed. None of the employees in the petitioned-for job classifications or the disputed job classifications are permanently stationed at the cancer center.

The employees in the petitioned-for job classifications are not represented by any labor organization. UFCW, Local 1625 presently represents two units of employees employed by the Employer: a unit of registered nurses and a unit of technical employees. By letter, UFCW, Local 1625 informed me that it would not intervene in this case and that it does not seek to represent the petitioned-for unit of skilled maintenance employees.

The employees in the petitioned-for job classifications and the employees in the disputed job classifications are employed in the engineering department, which includes plant operations, engineering, and biomedical groups, and in the information services department, which includes telecommunications, service desk, and end user services groups.

The Employer's 11 stationary engineers, 6 heating/AC/refrigeration mechanics, 3 plumbers, 6 drywall finish mechanics, 2 locksmith/signage mechanics, 1 preventative maintenance electrician, and 3 equipment mechanics are employed in the plant operations group in the engineering department and report to the supervisor of plant operations. The 12 maintenance mechanics, 1 cabinetmaker, 1 engineer/parts room coordinator, and the 2 remaining electricians are employed in the engineering group in the engineering department and report to the supervisor of engineering. The three biomedical equipment control technicians who are in dispute, as well as the biomedical equipment technicians included in the existing unit of technical employees, are employed in the biomedical group in the engineering department and report to the biomedical supervisor. The two biomedical equipment control coordinators are employed in the engineering department and report directly to the engineering manager. The supervisor of plant operations, the supervisor of engineering, and the biomedical supervisor also report to the engineering manager. The engineering manager reports to the assistant director of engineering; the assistant director of engineering reports to the director of engineering and construction; the director of engineering and construction reports to the vice president of operations; and the vice president of operations reports to the president and CEO. In total, 125 employees report to the vice president of operations. At the hearing, neither party contended that any employees reporting directly or indirectly to the vice president of operations, other than those in the engineering department (including the plant operations, engineering, and biomedical groups), are skilled maintenance employees.

The Employer's two telecommunications technicians and one telecommunications analyst are employed in the telecommunications group in the information services department

and report to the telecommunications supervisor. The two service desk coordinators are employed in the service desk group in the information services department, and, when hired, the service desk analyst will be employed in that group. The employees in the service desk group report to the service desk supervisor. The 11 systems engineers and 3 junior systems engineers are employed in the end user services group in the information services department and will report to the end user services supervisor, when one is hired. The telecommunications supervisor, service desk supervisor, and end user services supervisor report to the service delivery manager, who reports to the vice president and chief information officer. The vice president and chief information officer reports to the president and CEO. The information services department also includes an information services development and business systems group and a health information management group, and the service delivery manager testified that there are network engineering, mainframe system programming, and database analysis employees in the information services department. Neither of the parties contended at the hearing that any employees in the information services department other than the telecommunications analyst, telecommunications technicians, systems engineers, junior systems engineers, service desk coordinators, and service desk analyst are skilled maintenance employees. There are a total of 180 employees in the information services department.

II. UNIT PLACEMENT OF EMPLOYEES IN THE JOB CLASSIFICATIONS AT ISSUE

Having provided a context for my discussion of the unit placement of the job classifications at issue, I will briefly describe the Board's Health Care Rule, and then I will explain my decision with respect to the placement of each classification below.

Under the Board's Health Care Rule, absent extraordinary circumstances, only certain bargaining units, including a unit of all skilled maintenance employees, are appropriate in an acute care hospital. Board's Rules and Regulations Sec. 103.30; 54 Fed. Reg. 16347-16348, 284 NLRB at 1596-1597. Skilled maintenance employees are those employees who "are generally engaged in the operations, maintenance, and repair of the hospital's physical plant

systems, such as heating, ventilation, air conditioning, refrigeration, electrical, plumbing and mechanical," or the trainees, helpers, and assistants of such employees. Collective-Bargaining Units in the Health Care Industry: Second Notice of Proposed Rulemaking, 53 Fed. Reg. 33900, 33920-33924, 284 NLRB 1527, 1557, 1561 (1988); Ingalls Memorial Hospital, 309 NLRB 393, 393-394 (1992). Skilled maintenance positions generally require the completion of high school, vocational or trade school experience, formal or informal apprenticeship training, or an associate's or bachelor's degree. Skilled maintenance employees are often placed in separate departments, usually the plant operations or maintenance departments, and they usually have their own supervision. Id. They primarily work in maintenance areas but also perform work throughout the hospital, and they primarily interact with other maintenance employees and have only incidental contact with employees other than maintenance employees. Id.

1. Employees Stipulated to Be Skilled Maintenance Employees

The parties stipulated that the employees in the following job classifications are skilled maintenance employees and are included in the unit: stationary engineer, engineer/parts room coordinator, drywall finish mechanic, locksmith/signage mechanic, maintenance mechanic, cabinetmaker, electrician, plumber, heating/AC/refrigeration mechanic, and equipment mechanic. Before proceeding with my discussion of the placement of the employees in the disputed job classifications, I will briefly describe the job functions, skill level, education, licensing, training, wages, hours, and working conditions of the stipulated skilled maintenance employees.

Stationary engineers maintain and repair boilers, jetters, pumps, cleaning towers, and utilities equipment. The engineer/parts room coordinator works with other skilled maintenance employees to identify and order mechanical and electronic parts for biomedical and engineering equipment. Drywall finish mechanics maintain the cosmetic structure of the interior of the Employer's facilities by performing tasks such as painting, patching, repairs, ceiling replacement, and tile replacement. Locksmith/signage mechanics repair and maintain the lock

and key systems and repair and maintain doors throughout the Employer's facilities. Maintenance mechanics perform a variety of maintenance tasks throughout the facility, including basic plumbing, electrical, and heating, ventilation, and air-conditioning (HVAC) system work. One maintenance mechanic is permanently assigned to assist the cabinetmaker. The cabinetmaker is responsible for building and repairing all wooden cabinetry throughout the Employer's facilities. One electrician is responsible for preventative maintenance of the Employer's electrical system, and the other electricians are responsible for electrical repairs. Plumbers repair, replace, and treat the Employer's piping systems. Heating/AC/refrigeration mechanics are responsible for adjusting the temperature in the Employer's facilities and repairing the HVAC system. Equipment mechanics are responsible for preventative maintenance and repairs to the Employer's laundry equipment, central energy plant equipment, and kitchen and dietary services equipment.

In performing their job duties, most of the employees in the petitioned-for job classifications use many of the same tools, including screwdrivers, wrenches, pliers, and test equipment, as well as other tools specific to their trades. They work in various locations, including an engineering area on the first floor, the central energy plant, the incinerator, a free-standing laundry/warehouse/painting/carpentry shop, and the kitchens, and many of them also perform work in various locations throughout the Employer's facilities as needed. They primarily work alongside other employees in the maintenance department and have only incidental contact with other employees. They are all organizationally part of the plant operations and engineering groups in the engineering department.

Based upon the job descriptions in evidence, it appears that employees in the petitioned-for job classifications are generally required to have a high school education and one to three years of experience, and some of them are required to attend one or two years of vocational school. Only one of the petitioned-for job classifications, the heating/AC/refrigeration mechanic position, requires any kind of license or certification. That position requires EPA CFC

certification. The Employer prefers that electricians be licensed as master or journeyman electricians, and two of the Employer's electricians are licensed journeymen.

All employees in the petitioned-for job classifications are paid by the hour, and their pay ranges from a low of \$10.64 per hour (the minimum pay for a maintenance mechanic) to a high of \$20.45 (the maximum pay for a heating/AC/refrigeration mechanic). The Employer's vice president of human resources testified that the same benefits are available to all of its employees facility-wide and that the same human resources policies apply to all employees facility-wide. It appears that at least some of the employees in the petitioned-for job classifications wear uniforms. Stationary engineers and maintenance mechanics work rotating 8-hour shifts, providing 24-hour-per-day coverage. The other employees in petitioned-for job classifications generally work on the day shift and sometimes work other hours as needed.

Based on the record as a whole and the stipulations of the parties, I find that the employees in the petitioned-for job classifications are skilled maintenance employees and are included in the unit.

2. Biomedical Equipment Control Technicians

I find that biomedical equipment control technicians are skilled maintenance employees, and they are therefore included in the skilled maintenance unit. Biomedical equipment control technicians are responsible for preventative maintenance of biomedical equipment, such as ventilators, defibrillators, kidney machines, physiological monitoring systems, and physiological pressure systems. The preventative maintenance work that they perform entails performing electrical safety calibrations and other safety checks to ensure that all biomedical equipment is operating within the manufacturers' specifications. Every piece of equipment at the Employer's facilities has a routine preventative maintenance schedule assigned to it, and biomedical equipment control technicians are assigned to perform preventative maintenance according to that schedule. In addition, they repair the oxygen and fire alarm systems in the facility. They repair "lower-end" biomedical equipment "at a certain level" and assist biomedical equipment

technicians, who are included in the technical unit represented by UFCW, Local 1625, with repairs to “higher-end” medical equipment. They work alongside biomedical equipment technicians in order to advance and prepare themselves to move into those positions, and biomedical equipment technicians sometimes ask them to perform testing and calibration checks on equipment after a repair. The assistant director of engineering testified that they are entry-level biomedical equipment technicians. They also work alongside skilled maintenance employees, including electricians and maintenance mechanics, when the biomedical equipment they are testing, maintaining, or repairing is tied to systems maintained and repaired by skilled maintenance employees. For example, skilled maintenance employees maintain and repair the medical gas systems, and biomedical equipment control technicians test, maintain, and repair related alarm systems. There is no evidence that biomedical equipment control technicians engage in any direct patient care.

In performing their job duties, biomedical equipment control technicians use various tools, including screw drivers, pliers, test equipment, physiological monitoring simulators, and electrical safety analyzers. They belong to the biomedical group in the engineering department and report to the biomedical supervisor. They work along with the biomedical equipment technicians and biomedical supervisor in the biomedical shop near the engineering area on the first floor. They spend much of their time performing preventative maintenance on equipment throughout the Employer’s facilities.

They are required to have computer skills, an understanding of medical equipment, an intermediate electronics background, and an understanding of medical terminology and physiology. Some of them had previous experience in biomedical equipment repair with past employers. They also can receive electronics training and training at manufacturers’ schools on repairs to lower-level medical equipment. The range of pay for their pay grade is \$13.75 to \$19.25 per hour. They work the day shift and do not wear uniforms.

The record evidence establishes that the biomedical equipment control technicians are primarily engaged in the performance of skilled maintenance work, since they engage in the maintenance and repair of biomedical equipment as well as the Employer's oxygen and fire alarm systems. In a number of cases, the Board has found employees responsible for performing tasks such as maintaining, testing, calibrating, and repairing biomedical equipment to be skilled maintenance employees. See Toledo Hospital, 312 NLRB 652, 652-653 (1993); Mercy Health Services North, 311 NLRB 1091 (1993) (Member Devaney dissenting in part, noting that he would permit biomedical technicians to vote subject to challenge in the skilled maintenance unit); Ingalls Memorial Hospital, 309 NLRB at 396-397; San Juan Regional Medical Center, 307 NLRB 117 (1992) (Member Oviatt dissenting, stating that he would find the biomedical technicians to be technical employees and would exclude them from the skilled maintenance unit).⁶ The tools used by biomedical equipment control technicians are similar to those used by other skilled maintenance employees, and they are required to have experience and educational backgrounds similar to the experience and educational backgrounds of other skilled maintenance employees. Their rates of pay are in line with those of other skilled maintenance employees. Based on the record evidence, I find that biomedical equipment control technicians are included in the skilled maintenance unit.

3. Biomedical Equipment Control Coordinators

I find that biomedical equipment control coordinators are not skilled maintenance employees, and they are therefore excluded from the unit. Biomedical equipment control coordinators are responsible for maintaining an inventory of all equipment at the Employer's facilities as well as a database of information pertaining to preventative maintenance and

⁶ It is noted that prior to the issuance of the Board's Health Care Rule, the Board took varying positions regarding whether biomedical technicians were skilled maintenance employees. Compare Garden City Hospital, 244 NLRB 778, fn. 4 (1979) (biomedical electronics technicians, who tested and repaired electronic equipment in a hospital, included in a skilled maintenance unit) and Faulkner Hospital, 242 NLRB 47 (1979) (biomedical technicians included in a skilled maintenance unit) with Long Island College Hospital, 239 NLRB 1135 (1978) (biomedical technicians excluded from a skilled maintenance unit).

unscheduled repairs of equipment. In addition, they are responsible for receiving requests for repairs to the Employer's facilities and biomedical equipment from the Employer's staff by telephone and computer and disseminating work orders for those repairs and for routine preventative maintenance to the appropriate group in the engineering department (i.e., engineering, plant operations, or biomedical). They determine which group will receive which work order based on the type of repair requested or the type of preventative maintenance to be performed. Typically, they give the work orders to the supervisor of engineering, supervisor of plant operations, or biomedical supervisor, but when a supervisor is not available, they transmit the work orders directly to the employees in the appropriate group. If a work order is not distributed to the appropriate group, the supervisors, or on occasion the employees, will pass on the work order to the correct group for the preventative maintenance or repair to be completed. After an employee completes the work called for in a work order, he or she documents the work performed on the work order and returns it to the biomedical equipment control coordinator for entry into the equipment maintenance history database by a secretary or the biomedical equipment control coordinators. One biomedical equipment control coordinator is primarily responsible for disseminating work orders and maintaining the equipment maintenance database for biomedical equipment, and the other is primarily responsible for performing the same function for the remainder of the engineering department. The biomedical equipment control coordinators are cross-trained to perform one another's job duties and cover for each other as needed.

Biomedical equipment control coordinators are organizationally a part of the engineering department and report directly to the engineering manager. The biomedical equipment control coordinators work with a secretary in an office in the engineering area on the first floor. They spend about 90 percent of their time in the office. They occasionally have reason to leave the office to check the control number on a piece of equipment, and, about three or four times per year, they volunteer to help with engineering work during a utility shutdown at the Employer's

facility. The only equipment they use is computers, except on the occasions when they volunteer to assist during a shutdown. Their interaction with other employees in the engineering department, including those in the biomedical group, consists of disseminating work orders to the supervisors or sometimes directly to the employees. They discuss any potential issues related to a work order with the supervisors and employees. A stationary engineer testified that he would report back to the biomedical equipment control coordinator if he felt that it was necessary to explain any atypical results when he performed water testing called for in a preventative maintenance work order. The biomedical equipment control coordinators do not fill in for employees in any of the petitioned-for job classifications or the disputed job classifications except, on occasion, they may fill in for the engineer/parts room coordinator.

Both of the biomedical equipment control coordinators have a background in biomedical equipment. They are required to have computer skills; understanding of equipment management software; basic understanding of the systems in the facility; and understanding of the skill sets of all engineering, plant operations, and biomedical employees. They are not required to hold any type of license, and neither one of them holds any type of degree or license. The pay range for biomedical equipment control coordinators is \$17.12 per hour to \$23.97 per hour. They work the day shift, Monday through Friday, and are required to clock in and out. They do not wear uniforms.

I find that because biomedical equipment control coordinators do not perform skilled maintenance work, they are not skilled maintenance employees and are excluded from the unit. The Board has found that employees in positions similar to the biomedical equipment control coordinator positions at issue in this case are not skilled maintenance employees because they do not perform skilled maintenance work. For example, in Ingalls Memorial Hospital, 309 NLRB at 397-398, the Board found that project support coordinators, who helped hospital departments with planning for and operating during construction projects, did not perform skilled maintenance work and were not skilled maintenance employees, although their functions were "at times

closely connected with plant operations employees who [did] perform hands-on skilled maintenance work." In that case, the Board also found that construction leads, who functioned as project coordinators on small projects, providing work direction to painters and carpenters and preparing reports detailing costs and schedules, did not perform skilled maintenance work and were not skilled maintenance employees. Id. at 398. Similarly, in Barnes Hospital, 306 NLRB 201, 201 (1992), the Board found that the general office clerk, the secretary in the engineering department, and the secretary in the design and construction department were properly excluded from a skilled maintenance unit because they "primarily perform[ed] routine clerical functions and [did] not perform any skilled maintenance work." Here, the biomedical equipment control coordinators do not engage in the operation, maintenance, or repair of any of the hospital's physical plant systems and are therefore not skilled maintenance employees.⁷

4. Telecommunications Technicians

I find that telecommunications technicians are properly included in the skilled maintenance unit. The Employer's two telecommunications technicians perform installations and repairs for the Employer's telecommunications systems, which include analog phone lines, wiring, modems, and telephone handsets. They share assigned work areas with the telecommunications analyst and telecommunications supervisor. Their work areas are located on the first floor and the second floor where the Employer's telecommunications equipment is located. They move throughout the facility to perform repairs on telecommunications equipment as needed. In their work area on the first floor, they repair and analyze broken telephone sets and break down and test equipment that is to be installed. In performing their work, they use

⁷ At the beginning of the hearing, the Petitioner took the position that biomedical equipment control coordinators should be excluded from the unit both because they are not skilled maintenance employees and because they are supervisors within the meaning of Section 2(11) of the Act. Later in the hearing, the Petitioner stated that it no longer contended that biomedical equipment control coordinators are supervisors. Because I find that biomedical equipment control coordinators are not skilled maintenance employees and are excluded from the skilled maintenance unit on that basis and because no party contends that they are statutory supervisors, it is unnecessary for me to address whether or not they are supervisors within the meaning of the Act.

hammers, punch tools, scissors, screwdrivers, wire-cutters, crescent wrenches, socket wrenches, flashlights, and specialized crimp tools, as well as testing equipment including tone generators, multimeters, phone analog test sets, and internal test equipment. They work side by side with the stipulated skilled maintenance employees during construction projects, office moves, and the performance of troubleshooting and repair work. For example, if cables are damaged when a wall is moved, they may work with drywall finishing mechanics to trace and repair any problems. They are part of the telecommunications group of the information services department and report to the telecommunications supervisor. They do not share common supervision with the stipulated skilled maintenance employees. They are required to have a high school degree or equivalent. They are not required to have any specialized training or certification, but they participate in industry, manufacturer, and vendor training from time to time. They do not wear uniforms. They are paid between \$16.12 and \$22.57 per hour.

The Board has found that employees who install, maintain, and repair a hospital's telecommunications system must be included in a skilled maintenance unit. See University of Pittsburgh Medical Center, 313 NLRB 1341 (1994); Toledo Hospital, 312 NLRB at 653-654.

Repair and maintenance of a hospital's telecommunications system constitute skilled maintenance work because the telecommunications system "is an integral and necessary part of the physical plant, with cabling running through the walls," and because it involves the performance of work on "complex, sophisticated hospital equipment." Id. at 654. The placement of telecommunications employees in a separate department from the stipulated skilled maintenance employees "is not a significant factor" in determining their unit placement. Id. Therefore, I find that telecommunications technicians are skilled maintenance employees and are included in the unit.

5. Telecommunications Analyst

For similar reasons, I find that the telecommunications analyst is properly included in the skilled maintenance unit. The job functions of the telecommunications analyst overlap with

those of the telecommunications technicians. The telecommunications analyst, like the telecommunications technicians, is responsible for the installation and repair of telecommunications equipment. The telecommunications analyst tests and prepares phones prior to installation, repairs broken phones, prepares and installs wires and cords for telecommunications equipment, and uses testing equipment to determine whether telecommunications equipment is operating properly. However, the telecommunications analyst's job functions are more complex than those of telecommunications technicians. In addition to working on installations and repairs, the telecommunications analyst assists with formulating plans for office moves and construction projects and performs more complex repairs, such as repairs to the wireless phone network, which require the formulation of repair plans. The telecommunications analyst reviews logs and reports of outages and degradation of service and works with telecommunications technicians to repair any problems. The telecommunications analyst also ensures that all telecommunications equipment in the facility has access to the correct type of dialing (internal only, local, domestic, or international), based on the location of the phone. The telecommunications analyst uses the same types of tools as telecommunications technicians, belongs to the same department, reports to the same supervisor, shares the same work areas, and has similar interaction with employees in the stipulated skilled maintenance positions. The telecommunications analyst also interacts with supervisors and managers while working out technical details for the execution of a move or construction project.

The telecommunications analyst is required to have greater experience, knowledge, skills, and abilities than the telecommunications technicians. Although the telecommunications analyst is not presently required to have any type of certification, the Employer prefers for the telecommunications analyst to have manufacturer-level training. The Employer requires its telecommunications analyst to either have vendor certification in telephone switch administration or equivalent experience in corporate telecommunications. The

telecommunications analyst is required to have five to seven years of experience with telephone switch equipment. The telecommunications analyst does not wear a uniform, and the pay range for the telecommunications analyst's pay grade is \$18.88 to \$26.43 per hour.

Although the job functions of the telecommunications analyst are more complex than those of the telecommunications technicians, the telecommunications analyst, like the technicians, is engaged in the maintenance and repair of the Employer's telecommunications system, which is part of the Employer's physical plant system. Thus, under Toledo Hospital and University of Pittsburgh Medical Center, above, the telecommunications analyst is a skilled maintenance employee and must be included in the unit.

6. Systems Engineers

I find that systems engineers are skilled maintenance employees and are therefore included in the unit. Systems engineers perform various tasks related to the installation, maintenance, and repair of the Employer's computer systems. They are responsible for end user services, which involves servicing computer equipment from the wiring closet on the floor to end devices, such as computers. Their job duties include ensuring that equipment is placed appropriately during office moves or construction projects, breaking down printers and replacing printer parts, performing diagnostic procedures on computers and computer equipment, removing and replacing damaged computer hard drives, configuring computer systems, installing peripheral devices, connecting in-lab devices to computer systems, and stripping equipment and destroying data to prepare equipment for recycling. It appears that they also are responsible for the cords and cables that run to computer equipment, but it is unclear whether they are responsible only for cabling between computer equipment and the wall or if they are also responsible for cabling that runs from the computer, through the wall, to a wiring closet on the floor. If a systems engineer is unable to fix equipment, the equipment is either sent to another group more focused on the type of repair needed or is recycled. Systems engineers can access computers remotely through the network to resolve problems or push software

updates. They receive work orders for repairs from the service desk coordinators, who receive work orders from staff in the hospital and interview the staff to determine the nature of the problem and the type of repair required. In performing their job duties, systems engineers use various tools, including hammers, screwdrivers, crimp tools, pliers, scissors, punch down tools, socket sets, tone generators, tone receivers, ammeters, multimeters, and cable analyzers. They also use computers to document the work they have performed. They are required to have knowledge of computer hardware and software and a high school education or equivalent. They are not required to have any type of certification, but the Employer prefers that they be Microsoft Certified Systems Engineers and that they have an associate's degree in a related field or equivalent work experience. They are required to have a minimum of three years of experience. The Employer provides training for employees in systems engineer positions.

Systems engineers coordinate with stipulated skilled maintenance employees in performing their job duties. They coordinate with electricians to ensure that adequate power is available for all computer equipment and with heating/AC/refrigeration mechanics to ensure that the temperature in rooms where computer equipment is located is appropriate. In addition, they sometimes work on computer equipment which is integrated with biomedical equipment maintained and repaired by biomedical equipment control technicians. Increasingly, the computer equipment maintained and repaired by the systems engineers is also connected to parts of the HVAC system, which is maintained and repaired by heating/AC/refrigeration mechanics, so that those parts of the HVAC system can be monitored and controlled from a control station. Systems engineers have work areas on the fifth floor near the information services area where they "triage" work orders and on the first floor where they keep their tools and equipment. They spend only about 40 percent of their time in these two work areas and spend the majority of their time out on the floor installing and repairing office and clinical computer equipment. They belong to the end user services group in the information services department and will report to the end user services supervisor when one is hired. They do not

wear uniforms, they generally work the day shift, Monday through Friday, and the pay range for their pay grade is \$23.01 to \$32.21 per hour.

The appropriate unit placement of employees responsible for the installation, maintenance, and repair of computer systems in acute care hospitals is an area of some uncertainty. The Board determines the status of employees with job functions related to the maintenance and operation of computer systems in health care settings on a case-by-case basis. Silver Cross Hospital, 350 NLRB at slip op. at fn. 7.

Where it appears that employees involved in computer repair and maintenance perform only routine repair and maintenance tasks, the Board has found that they are not skilled maintenance employees and should be excluded from a skilled maintenance unit. For example, in Silver Cross Hospital, the Board found that computer operators were not skilled maintenance employees because they only removed and replaced inoperable equipment and performed only routine repairs, such as clearing paper jams and adjusting toner. Id. at slip op. at 2-3. They did not make electronic diagnoses or repair faulty devices. Id. Unlike other skilled maintenance employees, they did not use a variety of tools and only occasionally used a screwdriver to remove cables from a printer or wall jack. Id. They were also responsible for job duties not common to other skilled maintenance employees, such as generating payroll and billing reports and operating a help desk, which required them to have more than incidental contact with employees other than maintenance employees. Id. The Board found that their work was of a routine nature and required no formal education or training. Id. See also, e.g., Ingalls Memorial Hospital, 308 NLRB at 393, 397 (denying review of a Regional Director's decision to exclude a mechanic in the biomedical section from a skilled maintenance unit because the mechanic performed no mechanical functions and was primarily responsible for computer programming, data entry, computer operations, and routine maintenance functions for the plant operations computer network, which only had eight terminals); Jewish Hospital of St. Louis, 305 NLRB 955 (1991) (denying review of a Regional Director's decision to exclude "round technicians," who

delivered paper and made minor printer adjustments, such as changing ribbons and adjusting toner, from the skilled maintenance unit because their work was of a routine nature).

Where it appears that employees perform more than routine computer maintenance and repair tasks, the Board has ordered that they vote subject to challenge. For example, in Toledo Hospital, 312 NLRB at 655, the Board found that the resolution of the unit placement of a technical analyst and a network analyst “require[d] further study and perhaps additional facts, and [could] best be resolved through the use of the Board’s challenged ballot procedure.” The technical analyst in that case was responsible for “the installation, maintenance, repair, and upgrade of microcomputer equipment” and was required to have a bachelor’s degree or associate’s degree and equivalent experience, plus two years of related experience. Id. at 658-659. The network analyst was responsible for the mainframe computer network in the hospital, including the installation of printers and other equipment, and was responsible for coordinating cable pulls. Id. at 658. The network analyst was required to have one year of experience as a network analyst and an associate’s degree in computer science or equivalent experience, and a bachelor’s degree was preferred. Id. Both employees worked with electricians to coordinate cabling for new computer systems. Id. at 659. See also Rhode Island Hospital, 313 NLRB 343, 352 (1993) (ordering that a computer electronics technician, who was responsible for installing, troubleshooting, upgrading, and repairing microcomputers throughout the hospital, vote subject to challenge in both a skilled maintenance and a technical unit); Silver Cross Hospital, 350 NLRB at slip op. at 2-3 (directing that a PC analyst, who was responsible for installation and support of computer hardware and software, and an electronics technician, who was responsible for repairing and maintaining computers and peripheral equipment and installing

and repairing network equipment, be allowed to vote subject to challenge in a skilled maintenance unit).⁸

In the instant case, it would be impracticable to direct that the 11 systems engineers and the 3 junior systems engineers, who have job functions similar to those of the systems engineers, vote subject to challenge. The systems engineers and junior systems engineers would comprise 20 percent of the voting unit, and if they all voted subject to challenge, the probability that challenges would be determinative would be relatively high. Therefore, although the Board has apparently not directly addressed the unit placement of employees like the systems engineers and junior systems engineers in an acute care hospital, I find that it is necessary for me to decide the unit placement of these employees.

As a preliminary matter, I find that the installation, maintenance, and repair work performed by the systems engineers is not routine in nature, like the work performed by the computer operators in Silver Cross Hospital, who merely removed and replaced inoperable equipment and performed other routine repairs such as clearing paper jams and adjusting toner. Here, the systems engineers perform less routine repairs such as replacing hard drives and printer parts. The more complex nature of the repairs performed by the systems engineer is evidenced by the variety of tools they use in performing their work. Unlike the systems engineers, the computer operators in Silver Cross Hospital did not use a variety of tools and only occasionally used a screwdriver to remove cables from a printer or wall jack.

While systems engineers share some common characteristics with technical employees, I find that they do not appear to be employees who would be included in a technical unit in an

⁸ In its brief, the Employer states that in Jewish Hospital of St. Louis, above, “the Board, with no substantive discussion on the subject, permitted the Regional Director’s inclusion of ‘computer engineers’ in a skilled maintenance unit.” It appears that there was no substantive discussion of the inclusion of computer engineers in the Board’s decision in that case because, prior to the issuance of the Regional Director’s decision, the employer and the union agreed to the inclusion of computer engineers in the skilled maintenance unit, and the Regional Director, in agreement with the parties, determined that the computer engineers were properly included. Neither party requested review with respect to the Regional Director’s inclusion of the computer engineers, and the Board did not address their unit placement in its order denying review.

acute care hospital, because they do not work in patient care. Like technical employees, systems engineers play a “support role” in the hospital and appear to “perform jobs involving the use of independent judgment and specialized training.” 53 Fed. Reg. 33918; 284 NLRB at 1553-1554. However, the Board has noted that technical employees in hospitals are generally distinguished by “the fact that they work in patient care.” Id. The systems engineers in the instant case do not have any involvement in patient care, and I therefore find that they are not technical employees.

Based on the record evidence, I find that systems engineers are skilled maintenance employees. Like other skilled maintenance employees, systems engineers “deal with highly complex and sophisticated systems and equipment” and perform work requiring higher skill levels than those of other non-professional hospital employees. 53 Fed. Reg. 33920; 284 NLRB at 1556-1557. Systems engineers possess skills and perform job functions similar to those of other skilled maintenance employees, even though they do not perform traditional skilled maintenance duties, such as electrical, plumbing, heating, ventilation, and air-conditioning work. In addition to installing, removing, and replacing computer equipment like the computer operators in Silver Cross Hospital, systems engineers also repair faulty equipment, for example by replacing hard drives and printer parts. Like other skilled maintenance employees, they use a variety of tools in performing these tasks. In addition, they do not perform the same help desk function performed by the computer operators in Silver Cross Hospital and therefore apparently have less contact with employees who are not skilled maintenance employees. The systems engineers interact with other skilled maintenance employees, including electricians and heating/AC/refrigeration mechanics, and the equipment they service is integrated with biomedical equipment and the HVAC system, which is part of the hospital’s physical plant. Although their pay is significantly higher than that of other skilled maintenance employees, I find that their skills and job functions are sufficiently similar to those of other skilled maintenance employees to require their inclusion in the skilled maintenance unit.

7. Junior Systems Engineers

For similar reasons, I find that junior systems engineers are included in the skilled maintenance unit. The junior systems engineers are entry-level employees who perform more hands-on, lower-level repair and maintenance work on the Employer's computer systems. For example, they perform equipment breakdown and configuration and installation of network cards and other components. The junior systems engineer position is an entry-level position, requiring technical literacy, including the ability to diagnose computer systems, install software, and configure computer systems for use. Junior systems engineers are not required to have any kind of license or certification. They use the same tools as the systems engineers, share the systems engineers' work areas, report to the same supervisor, and belong to the same group in the information services department. They also spend the majority of their time on the floor maintaining and repairing clinical and office computer equipment. They do not wear uniforms, they generally work the day shift, Monday through Friday, and the pay range for their pay grade is \$15.50 to \$21.69 per hour.

The skills and job duties of the junior systems engineers overlap with those of systems engineers. As noted above, I have found that those skills and job duties are similar to those of other skilled maintenance employees, and, accordingly, I find that junior systems engineers are included in the skilled maintenance unit.

8. Service Desk Coordinators

I find that service desk coordinators are not skilled maintenance employees and are therefore excluded from the unit. The Employer's two service desk coordinators work at the service desk receiving requests for repairs to computers and telecommunications equipment from clinical and business staff. They question the staff members requesting the repairs about the problem and attempt to perform basic troubleshooting over the telephone or network. They then log the request and transmit a work order based on the request electronically to the appropriate information services group (i.e., telecommunications, systems engineering, network

engineering, mainframe system programming, database analysis, etc.). A supervisor then assigns the work order to an employee in the group. When the work called for in the work order has been completed, the employee assigned to perform the work will update the work order electronically, enter a "cause code," and submit the work order for closure to the service desk coordinators, who will close out the order. Occasionally, the service desk coordinators contact the staff member who requested the repair to verify that the problem was resolved. The telecommunications analyst and telecommunications technicians and systems engineers and junior systems engineers regularly contact the service desk coordinators for clarification and guidance regarding work orders. The service desk coordinators work in the hospital information services office on the fifth floor of the hospital, and when a service desk analyst is hired, he or she will work in the same office as the service desk coordinators. Service desk coordinators spend about 90 percent of their time in the office. During the remainder of their time, they go out on the floor in the Employer's facilities to familiarize themselves with the Employer's technologies. They are generally required to have a technological or business background. They are part of the information services department and report to the service desk supervisor. They are paid hourly and are required to punch a time clock. Their rate of pay is \$16.12 to \$22.57 per hour.

Because service desk coordinators do not perform skilled maintenance work, I find that they are not skilled maintenance employees. In Silver Cross Hospital, 350 NLRB No. 11 at slip op. at 3, the Board found that computer operators with some functions similar to those of the service desk coordinators in this case were not skilled maintenance employees because they "neither possess[ed] the types of skills nor perform[ed] the kinds of job duties common to other skilled maintenance classifications" and were not helpers and assistants to skilled maintenance employees. The computer operators in that case performed "help desk duties," like the service desk coordinators at issue in this case. Id. They also performed some other job duties, including generating reports and responding to routine computer hardware problems. Id. The

Board found that the skills and functions of the computer operators did not justify their classification as skilled maintenance employees. Id. The Board noted that in performing their help desk function, the computer operators, unlike the skilled maintenance employees, had more than "incidental contact" with employees outside their department, and that this weighed against a finding that they were skilled maintenance employees. Id. The service desk coordinators in this case, like the computer operators in Silver Cross Hospital, do not perform duties similar to those performed by skilled maintenance employees and have more than incidental contact with employees other than maintenance employees when receiving repair requests at the service desk. Therefore, I find that they are not skilled maintenance employees and are excluded from the unit.

9. Service Desk Analyst

Because the service desk analyst position is a newly created position which had not been posted or filled at the time of the hearing, I will not decide the unit placement of that position. However, based on the record evidence, it appears that the skilled maintenance position, when filled, will not be a skilled maintenance position. The one service desk analyst whom the Employer intends to hire, like the service desk coordinators, will work at the service desk receiving requests for repairs to telecommunications and computer equipment from the Employer's clinical and business staff, attempting to troubleshoot problems over the telephone or network, and logging and transmitting work orders for repairs to the appropriate information services group. The service desk analyst will serve as a point of contact with the staff for higher-level maintenance and repair events involving telecommunications and computer equipment. The service desk analyst will be required to have a higher level of skill and competency than the service desk coordinators. The Employer will require the service desk analyst to have five to seven years of relevant experience or an equivalent educational background (generally a two-year degree). The service desk analyst will report to the service desk supervisor and will work in the same office as the service desk coordinators on the fifth

floor of the hospital in hospital information services. The service desk analyst will spend about 90 percent of his or her time in the office. The Employer has determined that the service desk analyst will be an hourly employee and will be required to clock in and out but has not yet determined the rate of pay for the service desk analyst.

As noted above, since the service desk analyst position is a newly created position, which had not yet been posted or filled at the time of the hearing, I will not decide the unit placement of the position. However, it appears that, when filled, the service desk analyst position will not be a skilled maintenance position. Like the service desk coordinators, the service desk analyst will not perform skilled maintenance work. Even though the service desk analyst will perform work requiring a higher degree of competency than the work performed by service desk coordinators, he or she will perform duties that are functionally similar to those performed by the service desk coordinators, who do not have job functions similar to those performed by skilled maintenance employees.

III. CONCLUSIONS AND FINDINGS

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.⁹
3. The Petitioner claims to represent certain employees of the Employer.

⁹ The parties stipulated that the Employer is a Florida corporation with an office and place of business located in Lakeland, Florida, where it is engaged in the operation of an acute care hospital. During the past 12 months, a representative period of time, the Employer, in the course and conduct of its operations described above, derived gross revenues in excess of \$250,000 and purchased and received at its Lakeland, Florida facility, goods valued in excess of \$50,000 directly from points located outside the State of Florida.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

Included:

All full-time and regular part-time skilled maintenance employees, including stationary engineers, engineer/parts room coordinators, drywall finish mechanics, locksmith/signage mechanics, maintenance mechanics, cabinetmakers, electricians, plumbers, heating/AC/refrigeration mechanics, equipment mechanics, biomedical equipment control technicians, systems engineers, junior systems engineers, telecommunications technicians, and telecommunications analysts employed by the Employer at its Lakeland, Florida acute care hospital facilities.

Excluded:

All employees represented by other labor organizations, biomedical equipment control coordinators, service desk coordinators, professional employees, technical employees, all other employees, clerical employees, guards, and supervisors as defined in the Act.¹⁰

IV. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote on whether or not they wish to be represented for purposes of collective bargaining by International Brotherhood of Electrical Workers, Local 108, AFL-CIO. The arrangements for conducting the election will be specified in the Notice of Election that the Board's Regional Office will issue subsequent to this Decision.

¹⁰ As the unit found appropriate herein is larger than the unit initially sought by the Petitioner, and as it has been administratively determined that the Petitioner does not have an adequate showing of interest to proceed to an election among the employees in the unit, Petitioner must submit an adequate showing of interest within 14 days from the date of this Decision and Direction of Election, absent which, if Petitioner does not withdraw its petition, the petition will be dismissed.

Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in an economic strike who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike that began less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. North Macon Health Care Facility, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both

preliminary checking and the voting process, the names on the list should be alphabetized.

Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, 201 East Kennedy Blvd., Suite 530, Tampa, FL 33602-5824, on or before January 10, 2008. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (813) 228-2874 or electronically. (Please see www.nlr.gov for information about electronic filing.) Since the list will be made available to all parties to the election, please furnish a total of **two** copies, unless the list is submitted by facsimile or electronically, in which case only one need be submitted. If you have any questions, please contact the Regional Office.

Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices of Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 full working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. Club Demonstration Services, 317 NLRB 349 (1995). An employer who fails to do so may not file objections based on nonposting of the election notice.

V. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request

must be received by the Board in Washington by 5:00 p.m., EST on January 17, 2008. The request may not be filed by facsimile.¹¹

Dated at Tampa, Florida this 3rd day of January, 2008.

Margaret J. Diaz, Acting Regional Director
National Labor Relations Board, Region 12
201 E. Kennedy Blvd., Suite 530
Tampa, FL 33602

¹¹ A request for review may also be submitted by electronic filing. See the attachment provided in the initial correspondence in this case or refer to OM 05-30 and OM 07-07, which are available on the Agency's website at www.nlr.gov for a detailed explanation of requirements which must be met when electronically submitting documents to the Board and Regional Offices. Guidance can also be found under *E-Gov* on the Board's website.